BOUNDARY SURVEYS OF NATIONAL FOREST SYSTEM LANDS

HEARING

BEFORE THE

SUBCOMMITTEE ON FORESTRY, WATER RESOURCES, AND ENVIRONMENT

OF THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 1187

A BILL TO PROVIDE AUTHORITY TO THE SECRETARY OF AGRICULTURE TO CONDUCT BOUNDARY SURVEYS OF NATIONAL FOREST SYSTEM LANDS

MAY 24, 1982

Printed for the use of the
Committee on Agriculture, Nutrition, and Forestry

U.S. GOVERNMENT PRINTING OFFICE
97-006 O WASHINGTON : 1982

S161-24

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

JESSE HELMS, North Carolina, *Chairman*

BOB DOLE, Kansas
S. I. HAYAKAWA, California
RICHARD G. LUGAR, Indiana
THAD COCHRAN, Mississippi
RUDY BOSCHWITZ, Minnesota
ROGER W. JEPSEN, Iowa
PAULA HAWKINS, Florida
MARK ANDREWS, North Dakota
ORRIN G. HATCH, Utah

WALTER D. HUDDLESTON, Kentucky
PATRICK J. LEAHY, Vermont
EDWARD ZORINSKY, Nebraska
JOHN MELCHER, Montana
DAVID H. PRYOR, Arkansas
DAVID L. BOREN, Oklahoma
ALAN J. DIXON, Illinois
HOWELL HEFLIN, Alabama

GEORGE S. DUNLOP, *Chief of Staff*
J. ROBERT FRANKS, *General Counsel*
CARL P. ROSE, *Counsel and Staff Director for the Minority*

SUBCOMMITTEE ON FORESTRY, WATER RESOURCES, AND ENVIRONMENT

S. I. HAYAKAWA, California, *Chairman*

ROGER W. JEPSEN, Iowa
JOHN MELCHER, Montana

CONTENTS

	Page
Hayakawa, Hon. S. I., a U.S. Senator from California, opening statement	1
Huddleston, Hon. Walter D., a U.S. Senator from Kentucky, prepared statement	1
Reprint of S. 1187	17

CHRONOLOGICAL LIST OF WITNESSES

Schmitt, Hon. Harrison H., a U.S. Senator from New Mexico	1
Housley, Raymond M., Deputy Chief, Forest Service, U.S. Department of Agriculture	5
McCullough, Tom O., registered professional surveyor in the State of Oregon, on behalf of the American Congress of Surveying and Mapping	8

APPENDIX

Housley, Raymond M., Deputy Chief, Forest Service, U.S. Department of Agriculture, statement	15
Block, Hon. John R., Secretary, U.S. Department of Agriculture, letter dated March 22, 1982, to Senator Helms, with enclosed substitute for S. 1187	19
McCullough, Tom O., professional registered surveyor in the State of Oregon, on behalf of the American Congress on Surveying and Mapping	21

BOUNDARY SURVEYS OF NATIONAL FOREST SYSTEM LANDS

MONDAY, MAY 24, 1982

U.S. SENATE,
SUBCOMMITTEE ON FORESTRY,
WATER RESOURCES, AND ENVIRONMENT OF THE
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 324, Russell Senate Office Building, Hon. S. I. Hayakawa (chairman of the subcommittee) presiding.

Present: Senator Hayakawa.

STATEMENT OF HON. S. I. HAYAKAWA, A U.S. SENATOR FROM CALIFORNIA

Senator HAYAKAWA. This meeting of the Subcommittee on Forestry, Water Resources, and Environment will come to order.

We are here today to receive testimony on Senate bill 1187,[1] as introduced by Senator Schmitt.

This bill would provide authority to the Department of Agriculture to conduct boundary surveys of forestry lands.

We are very glad to have our distinguished colleague, Senator Schmitt, with us today, and we will begin with his testimony.

We also have a statement from Senator Huddleston, which we will submit for the record.

[The statement of Senator Huddleston follows:]

STATEMENT OF HON. WALTER D. HUDDLESTON, A U.S. SENATOR FROM KENTUCKY

The 190 million-acre National Forest System is one of our Nation's most valued resources. Each year, our National Forests provide billions of board feet of timber. The National Forests, under the multiple use concept, also fill a variety of other needs including recreation, protection of wildlife, and conservation.

In recent years, it has become apparent that many National Forest boundaries have not been adequately surveyed. Congress has already taken several steps to help correct that situation.

Because of the importance of the National Forests as a resource, and to protect the public interest including the interests land owners adjacent to National Forests, Congress should carefully consider all proposals designed to establish clear and accurate National Forest boundaries.

STATEMENT OF HON. HARRISON H. SCHMITT, A U.S. SENATOR FROM NEW MEXICO

Senator SCHMITT. Thank you, Mr. Chairman.

[1] See p. 17 for the text of S. 1187.

I appreciate your courtesies, and that of the full committee, in considering this legislation.

S. 1187, as you indicated, is legislation designed to provide authority to the Secretary of Agriculture to conduct boundary surveys on national forest lands, an authority that the Department currently doe not have.

I introduced S. 1187 as an attempt to solve a small part of a much broader problem, the need for timely and accurate boundary surveys of public domain land. The broader problem has been addressed by Senator Domenici's bill, S. 706, and it is my hope that that bill can be handled by this Congress as well.

This broader problem has been before Congress on several occasions, specifically as we struggled to provide adequate funding to meet the demand for cadastral survey work.

Senator HAYAKAWA. What does cadastral mean?

Senator SCHMITT. I am not sure of the exact definition, but to us in New Mexico, it means defining boundaries between public and private State lands as precisely as possible. Maybe we have somebody who can give us a dictionary definition of cadastral.

Senator HAYAKAWA. That is all right. I will take your word for it.

Senator SCHMITT. I am like you. The first time I heard it, and I asked what does it mean. And they said well, it means we are going to give you better surveys. I have a feeling that it may not be a word, but a sound that has been used to define these particular kinds of surveys. But, of course, that is the origin of words, I guess—is that correct? You are the expert on semantics, and if you do not know what cadastral means, then I am worried that it may not have a definition.

The limited approach to the problem which is outlined in S. 1187 grew out of an incident which occurred in New Mexico. This incident may help illustrate the importance of permanent cadastral surveys to a small community, particularly when your neighbor is the Federal Government. Not only your neighbor, but your surrounding force.

The example took place in and around Cloudcroft, N. Mex., near the Lincoln National Forest. The Forest Service, in 1967, transferred funds to the Bureau of Land Management, as was appropriate to conduct a resurvey of the national forest boundaries. This was necessary because the original markers were either lost or obliterated, as is often the case in pre-1910 monument markers. In 1969 the resurvey work was abandoned due to lack of funds.

However, the temporary markers on the work which had been accomplished were not removed. As time passed, private landowners adjacent to the forest relied on local private land surveyors to provide clear land title descriptions, and in turn, the land surveyors relied on the 1969 markers. Title companies relied on the land surveyors, lending institutions relied on the title companies, and so forth.

Fourteen years passed; funding was once again channeled to the Bureau of Land Management for resumption of the resurvey efforts. The new survey crews successfully located many of the previously lost, original monuments, and with sophisticated laser tech-

niques, determined that many lines, both old and new, were inaccurate.

The Cloudcroft community greeted the news predictably; they were astounded. Land titles were no longer considered clear, property transactions were halted, tax assessments were in disarray, and property improvements were presumably lost to the Federal Government. This is the problem as it exists today in Cloudcroft, N. Mex., and it is a problem that is compounded nationally in direct proportion to the amount of land in Federal ownership. For every mile of Federal boundaries surveyed, one to two cases of conflict—or trespass—are discovered.

Looking at the example of Cloudcroft is a little like looking at the problem through a microscope. The broad picture is that there are 2.3 billion acres of land in the United States, and one-third of that, or 770 million acres, is land in Federal ownership. Within those 770 million acres are 188 million acres of national forest lands requiring cadastral surveys of 272,000 miles of property boundary lines.

Mr. Chairman, that 272,000 miles, of course, is longer than it is from here to the Moon. I have some experience in that. That is 1.4 million property corner markers. In the absence of known Federal land boundaries there is bedlam, especially in the 30 "public land" States, those States created out of the public domain.

Historically, cadastral surveys to establish permanent, legal boundaries of Federal land was low priority work within the Government. It was not until after World War II that land values in the United States, including the public lands, began to soar dramatically. When public lands were being sold for as little as $1 an acre, the establishment of boundaries was not a high priority. But when the value of the land increased and the value of the resource on the land increased, the need for boundary location became critical. The Federal Government is playing a game of catch-up, and it is losing.

As you know, the U.S. Forest Service is now authorized to survey their boundaries on land coming into the system from private ownership. My bill would give the Forest Service Federal statutory authority to conduct surveys on national forest lands created from the public domain. This simple, straightforward action would eliminate the kind of uncontrollable scheduling delays that were experienced in the case of Cloudcroft and the Lincoln National Forest, and that have been duplicated nationwide.

Under the present cooperative agreement between the Bureau of Land Management and U.S. Forest Service, the Forest Service may conduct preliminary stages of survey activities, but must allow the Bureau of Land Management to schedule the finalization of the surveys in competition with the BLM's own survey priorities. The BLM survey priorities are of great importance to development of our Nation's resources, however, equally legitimate management programs are halted in the Forest Service while it waits for the BLM to act.

S. 1187 does not solve all cadastral survey problems, but it is a step in the right direction, and the approach has the support of both the Bureau of Land Management and the U.S. Forest Service.

Mr. Chairman, I want to thank you for holding this hearing on S. 1187, and I hope you will continue to expedite action on the bill. I know that there are some modifications proposed by the administration, but I hope that we can clarify those items that have been identified and move forward toward providing a solution to help avoid the kind of problem that we have had in New Mexico.

Thank you, Mr. Chairman.

Senator HAYAKAWA. Thank you very much.

The administration has some suggestions in your bill. The committee has received the official report on S. 1187, and the Department recommends, that is, S. 1187, not be enacted; and that the administration substitute the enactment instead.

Now, would you like to comment on their proposal?

Senator SCHMITT. Mr. Chairman, I think their substitute basically does the same thing. It does so by giving free standing authority to the Forest Service, rather than modifying the BLM's original survey authority, as S. 1187 would do. The main concern I would have about the administration's bill is that they reference in statute, a particular document that may or may not be around for a significant period of time.

I would think whichever route we take, free standing authority, or amending the BLM, we ought to do that without referencing documents that have transitory existence.

Senator HAYAKAWA. As I understand, the administration situation would establish free standing authority for the Secretary of Agriculture to conduct surveys on national forest boundaries, without amending the 1899 Act, which gives overall survey authority to the Secretary of Interior.

So do you believe then that the administration's substitute would achieve the objectives?

Senator SCHMITT. I think it would. I think that our approach is cleaner, and it does modify the original act, and we would prefer it, but I do not think that it is mandatory that we go that way.

I would like to work with the committee, however, have our staffs work together, to see if we cannot clarify the references to specific administrative documents.

The administration bill references statutorily the manual for BLM surveys, and that is an administrative document, subject to change administratively, and not statutorily. It does not seem appropriate to reference it in legislation.

Senator HAYAKAWA. I have a number of——

Senator SCHMITT. Mr. Chairman, I would quote directly from the administration's substitute amendment——

> Section 2. The Manual of Instructions for the Survey of the Public Lands of the United States, issued by the Bureau of Land Management, Department of the Interior, shall govern survey and resurvey of public lands and national forest system lands.

I just do not think that is a very precise way to set up the legislation.

Senator HAYAKAWA. Well, I think we ought to hear then from the National Forest Service, Department of Agriculture.

Senator SCHMITT. Yes, sir, and again, I appreciate your interest and concern.

Senator HAYAKAWA. Can you stay around for a while?

Senator SCHMITT. I can stay for a few minutes. I would like to hear this.

Senator HAYAKAWA. Yes, so that we could have a difference of views here.

Mr. Raymond Housley, Deputy Chief, National Forest Service, U.S. Department of Agriculture.

STATEMENT OF RAYMOND M. HOUSLEY, DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. HOUSLEY. Thank you, Mr. Chairman.

We appreciate the opportunity to offer the Department of Agriculture's views on legislation that is very important to us.

I have a rather lengthy statement, which I can submit for the record, if you wish, and summarize it briefly.[1]

Senator HAYAKAWA. If you would, please.

Mr. HOUSLEY. The summary really is in the second paragraph of the statement which we have provided. This bill would provide authority to the Secretary of Agriculture to conduct boundary surveys of national forest system lands.

Senator HAYAKAWA. This is the second paragraph?

Mr. HOUSLEY. Yes.

This would be done by amending the 1899 act that gives sole authority for Federal surveys to the Secretary of the Interior. While we support the objectives of S. 1187, we believe that the program required to carry out surveys can be handled most effectively by a reallocation of responsibilities between the Department of the Interior and the Department of Agriculture rather than by shared responsibilities as would be done by S. 1187. Thus, we recommend that separate statutory authority be provided to the Secretary of Agriculture. We have prepared a substitute bill, in cooperation with the Department of the Interior, to do this, a copy of which is attached to my statement.

With that, I think I would be happy to respond to any questions that the subcommittee may have.

Senator HAYAKAWA. I see.

That is Senator Schmitt's bill would put this entirely in the hands of the Department of the Interior, as you understand it?

Mr. HOUSLEY. The existing legislation places the responsibility with the Department of the Interior.

As I understand Senator Schmitt's bill, S. 1187, this would provide for a sharing of that responsibility.

Our proposal is that Senator Schmitt's bill be revised to grant free standing authority to the Secretary of Agriculture to conduct surveys of the national forest system.

Senator HAYAKAWA. Originally it is with the Interior, then it is proposed that it is a sharing?

Senator SCHMITT. Current law is that Interior has sole responsibility, and for the finalization of the surveys. We are proposing that the Forest Service share that responsibility and have the flexibility to go either way within that existing law.

---

[1] See p. 15 for the prepared statement of Mr. Housley.

97-006 O - 82 - 2

The Department of Agriculture is proposing that the Secretary of Agriculture have free standing, independent authority, not shared authority. If I understand you correctly.

Mr. HOUSLEY. That is correct. This would make it abundantly clear that we have the authority for the survey of acquired lands, and lands in the eastern United States, where there are substantial areas of national forest lands. There is some feeling that statutory language would be needed, and would be provided by the free standing authority.

Senator HAYAKAWA. That is in your second paragraph, right here, is it not?

Mr. HOUSLEY. Yes, sir.

Senator HAYAKAWA. You say a copy is attached to your statement. That is at the end of your presentation, is it not?

Mr. HOUSLEY. Yes, sir.

Senator HAYAKAWA. Is this the bill that you speak of, USDA supplemental statement, a substitute for S. 1187?

Mr. HOUSLEY. Yes, Mr. Chairman.

Senator HAYAKAWA. Would you care to read it, and explain it?

Mr. HOUSLEY. A bill to provide authority to the Secretary of Agriculture to conduct boundary surveys of national forest system lands.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law to the contrary, the Secretary of Agriculture shall have the authority for the conduct of boundary surveys of National Forest System lands.

That simply provides the freestanding authority, notwithstanding the 1899 act, which has been referred to.

Section 2. The Manual of Instructions for the Survey of the Public Lands of the United States, issued by the Bureau of Land Management, Department of the Interior, shall govern survey and resurvey of public lands and National Forest System lands.

This provision is to assure standardization and uniformity of methods and approaches by the various agencies surveying public land boundaries.

Senator HAYAKAWA. We will make the letter of March 22, 1982, from the Department of Agriculture a part of the record.[1]

Senator SCHMITT. Why should we not just require that there be standardization, and that the two Departments work that out, rather than referencing a particular manual of operation?

Mr. HOUSLEY. I think that would be acceptable to us. We have not reached full agreement with our partners in the Department of the Interior on that point, but I feel certain that——

Senator SCHMITT. But if it is business interagency agreement, you want to say that the manual shall be used by both agencies, that is fine, but I just do not understand why you want that manual called out in law.

It seems to me what you want in law is that there be a requirement that you work out a standard procedure.

Mr. HOUSLEY. That is correct. This was mentioned because there is an existence of such a standard.

---

[1] See p. 19 for the March 22, 1982, letter from the Department of Agriculture.

Senator SCHMITT. But the two Secretaries ought to decide what they want to use. I would think that the Congress just require that you do it to a set procedure.

Mr. HOUSLEY. That procedure has worked well for 83 years now. So it would be hard to argue that point.

Senator HAYAKAWA. So that this section 2 can be revised?

Senator SCHMITT. My recommendation, Mr. Chairman, would be that section 2 be revised to provide authority, or requirement really, that they work together and determine a uniform set of procedures, and if by agency agreement, then they subsequently want to decline the survey procedures as the document that they want to use, that is fine, but the Congress should not have any concern about that. Our concern is that they have a certain set of procedures and that they work that out.

But then that would require that, really, before the BLM can change the manual of instructions in a significant way, they would have to coordinate with the other users of the Department.

It would seem that that is what the Department of Agriculture would want. The BLM could change this document, and you are bound to use it, whether you agree with them or not. And the change might not be appropriate for the survey of certain Forest Service lands, where it would be appropriate to Bureau of Land Management lands.

Having been an old surveyor, I know that sometimes those things get a little bit complicated.

Senator HAYAKAWA. Well, as I see it, there are no irreconcilable differences.

Senator SCHMITT. No, there are not, Mr. Chairman.

And if the Interior and Agriculture feel that there ought to be freestanding authority, we would have no problem with that, and Congress can live with designating the manual of instructions. It just does not seem to be a very clean way to do it, and that you would rather have the requirement that you work together, and that BLM consult with you before that manual is changed. That can be worked out by interagency agreement.

We do not have to tell you to do that, so long as you are bound by the Congress to establish a uniform set of procedures jointly.

Senator HAYAKAWA. Would that have to be included in the bill?

Senator SCHMITT. I think you, the staff, and legislative counsel, could revise section 2, and their proposed substitute, to merely establish the requirements that the Interior and Agriculture have a uniform set of procedures, and then it is up to them to work out what they use. They may want to designate the manual of instructions, but I would think the Department of Agriculture would want to be consulted to any revisions to that manual of instructions.

Senator HAYAKAWA. How does that sound to you, Mr. Housley?

Mr. HOUSLEY. The procedure that Senator Schmitt has described is in fact what they have been doing over a long period of time, and it is good standing between the Departments.

Senator HAYAKAWA. So should we put in the statutory language?

Mr. HOUSLEY. I would think it would be essential to have some requirement for uniform procedures to be used by any agency surveying public lands.

Senator HAYAKAWA. I should think so.

Senator SCHMITT. I would agree with that, and I think that could be worked out, without referencing a particular manual of instructions. Their interagency agreement to implement the act is fine, that is up to them.

Senator HAYAKAWA. The administration report addresses some of the limitations of Federal survey authority on certain National Forest Service lands, is that correct?

Mr. HOUSLEY. I am sorry, sir?

Senator HAYAKAWA. The administration report on S. 1187 addresses some of the limitations of Federal survey authority on certain National Forest Service System lands?

Mr. HOUSLEY. Yes, sir.

Senator HAYAKAWA. You have examples of this, I take it?

Mr. HOUSLEY. Yes, sir, they are described in the full statement.

Senator HAYAKAWA. In the full statement that you have given?

Mr. HOUSLEY. Yes, sir.

Senator HAYAKAWA. Under these laws, duplication of the Forest Service and BLM, and surveys made on national lands are exempt from the public domain, and if so, would S. 1187 address this problem?

Mr. HOUSLEY. Yes, Mr. Chairman, we feel that it would be very helpful in that respect. It would be particularly helpful in enabling us to establish priorities on a short time frame, and to get critical situations taken care of promptly, in accordance with the other resource management needs.

We feel it is essential to have the survey responsibility associated very closely with the Land Management responsibility, in order to be fully responsive to the Executive and congressional direction we have received.

Senator HAYAKAWA. We have here, Mr. Tom McCullough, Albany, Oreg., representing the American Congress on Surveying and Mapping.

I think he should join the discussion at this point, after making his presentation, so that we all get together on this. I think it is a problem which we need as much input as possible.

Mr. McCullough.

STATEMENT OF TOM O. McCULLOUGH, REGISTERED PROFESSIONAL SURVEYOR IN THE STATE OF OREGON, ON BEHALF OF THE AMERICAN CONGRESS ON SURVEYING AND MAPPING

Mr. MCCULLOUGH. Yes. I think we have some written testimony here, which I would like to have entered in the record, and I am not going to read it. It is very lengthy, but I would summarize.[1]

Briefly, we really support this bill, both the American Congress on Surveying and Mapping, and the American Society of Photogrammetry.

Senator HAYAKAWA. When you say this, you mean S. 1187?

Mr. MCCULLOUGH. Yes. We agree in principle that it is a good bill.

We do have some concerns, however, that we think this committee should look at before enactment, or passing on to the floor.

---

[1] See p. 21 for the prepared statement of Mr. McCullough.

We think, first of all, that the bill does allow for more efficient surveys. The Forestry Service now has to stand in line if they are going to be working on the Public Land Survey Systems, when they need the assistance of the BLM, and the BLM's have had a lot of problems. It takes a long time for them to get organized, or to get the funding to do those surveys, and then it takes as Senator Schmitt pointed out, anywhere from 5 to 20 years sometimes to get those surveys approved. It is very inefficient.

For that reason, the Forest Service, we believe, should have their own authority to conduct these surveys. They can do it in a more efficient manner, we believe, than the BLM has, using their standards that they use. They [USFS]* have timber sales in the West to get out, and they need those services timely.

So for that reason we think it is a good bill. However, what we do not want to see is some of the pitfalls that have occurred in the past, that the Forest Service could possibly get themselves into, if they do have their own authority.

As you probably know, most of the surveys that they are now conducting on the National Forest System involve the resurvey of the Public Lands Survey System. Each mile of national forest boundary is generally a mile of private land. Generally speaking. So there is the private land considerations to take into consideration to look out after.

Right now the Forest Service has a program of encouraging their own survey personnel to be licensed in the State in which they are working, so that they can protect the bona fide rights of the private landowner.

The question that we have is that if they are given full authority to conduct these services on their own, would it no longer be necessary to ask for licensing with their own personnel? It is a question only. We hope it would not happen. We do not know.

I might point out that right now, there are some surveys on National Forest Service lands in your State of California, that are being conducted without the benefit of licensed land surveyors, and both in my State of Oregon and in the State of Washington, the National Forest there have chosen not to follow this policy, as they feel that it is just not good public policy not to have licensed land surveyors.

There is a question of law, whether a Federal surveyor should have a license or not within the State that he is working, it is a question of law, but as a policy in Washington and Oregon, they [USFS] require that contractors must have a license, and we would like to see that continue, because of the private property rights that are involved in the resurveying.

Senator SCHMITT. You say question of law. Would you explain?

Mr. MCCULLOUGH. The State cannot dictate to the Federal Government that one must have a license in order to survey Federal lands. There is case law that supports that. But there is no reason why the Federal Government cannot say we are going to have our folks licensed within those States.

Senator SCHMITT. You are saying it is generally within that policy?

---

*U.S. Forest Service or Forest Service.

Mr. McCULLOUGH. The Forest Service has encouraged their own personnel, under the authority that they are surveying, State authority, when they contract that out, they hire licensed surveyors.

In the State of California there are some surveys being conducted, which the USFS does not feel needs licensed surveyors. We disagree with them. But it is a question of law.

In the State of Oregon they said they [USFS] are not going to argue about it, they are just going to require licensed——

Senator HAYAKAWA. What is the difference in the qualifications of a surveyor that is licensed or not licensed? Is that license given by the Federal Government?

Mr. McCULLOUGH. No, it is given by the State.

Senator HAYAKAWA. Can they do it within the State?

Mr. McCULLOUGH. The BLM?

By the way, would you like to know what cadastral means?

Senator HAYAKAWA. Yes.

Mr. McCULLOUGH. It is a derivative of a Latin word which means boundary, or parcel of land.

Senator HAYAKAWA. All right, thank you.

Senator SCHMITT. If you had taken Latin, you would have known that.

Mr. McCULLOUGH. The BLM, although some are licensed, do not require—it is not a Federal law that their personnel must be licensed within the State in which they are working. The history of it is that the Public Land Survey System was set up back in—when I think Thomas Jefferson set it up to provide some sort of a net to disperse Federal lands, or the public domain into private lands. At that time there was no need for licensing.

The States then took over—and all the States that are involved with the Public Land Survey System and different case laws that cropped up, they required licensing to protect the public. Since most, as I said, most of these surveys involve resurveys, we believe that licensing is important.

We agree wholeheartedly with Senator Schmitt that the Manual of Instructions of Surveying on Public Lands has no place in Federal law. We call it the "Bible," and it is a good "Bible." It is, however, not up to date, and the question comes up, if it is written into public law, is the Forest Service going to have to come back to Congress every time they want to change a paragraph, or period, or procedure?

We think that really is not too efficient, and the Forest Service should be able to either write their own procedures, or do so in cooperation with the BLM. We are not too concerned with that, but they should have a manual of instructions, but they should have the latitude to change it once the state of the art moves up, or case law comes about, that necessitates change, and so on.

So for that reason, we agree wholeheartedly. It [the manual] has no place in public law at all.

Senator SCHMITT. Would you not like to see that all Federal surveys be conducted under the same general standards?

Mr. McCULLOUGH. Absolutely.

Senator SCHMIDT. Recognizing that the Forest Service may have a specific problem that deals with timber sales, and BLM would not have it?

Mr. McCULLOUGH. Absolutely. The need for standards has never been more—there has never been more of a need.

I happen to have served as the chairman of the standards and practice manual in the State of Oregon, and we are trying to draw one up in that State, as many other States are. It is a tough job. It really is. But it is necessary. We have to tell the public what we are doing, and how we are doing it. It is just necessary. But it does not have a place in law.

As far as referring specifically to that [the manual], the law should state that you shall have a manual. There are as you know, there are many other bills before Congress now, both Senate bills 705, 706, House bill 4399, and all of these we believe have a place in today's—the problem of surveying, and we think they should all be considered at once. All of these different bills kind of attack the same thing, as Senator Schmitt said, and we would really urge you to look at our testimony, and we submitted some suggestions, many of which are in the House bill 4399, that we think should be incorporated into one bill.

We think you should look at those, and work with your Natural Energy and Resources Committee so that we can come up with good survey legislation this year.

Senator HAYAKAWA. Thank you very, very much.

Senator SCHMITT. Mr. Chairman, I would agree with that. It would be nice to have the other problems taken care of, but it does appear, pragmatically speaking, that it is not going to be easy to get a bill like S. 706 through. And S. 1187 addresses a problem. It is a simple problem, one that we ought to get solved, and take one bite at a time. Bill S. 706, or its companion bills, one of which I introduced, do attack the broader problem. We are just not able to get the administration to agree on that approach.

I would like to see them passed, too, but I am not sure it is going to happen. If we wait for that to pass, then this will not happen.

Senator HAYAKAWA. So you believe, the three of you, Mr. Housley, Mr. McCullough and you, Senator Schmitt, you believe that given the material that we have right now, that the essential agreement that you have, that this should be jointly under both Agriculture and Interior, and jointly work out procedures, and bring together as necessary a revisable manual of instructions?

Senator SCHMITT. For that you would have the two Secretaries work out an agreement, and make sure that the provisions are consistent with each of theirs.

Senator HAYAKAWA. But it would be kept up to date?

Senator SCHMITT. Yes.

Senator HAYAKAWA. But that is the legislation that you would all like to see?

Mr. HOUSLEY. We fully support the objectives of the legislation. Our only difference is in the manner of achieving them.

Mr. McCULLOUGH. We want to emphasize that we do not think that you should refer to that specific manual in law. We would prefer to let us write one. Let us have uniform standards, whatever they may be, to allow the latitude to keep them up to date easier.

Senator HAYAKAWA. Well——

Mr. McCULLOUGH. I could give you an example.

In the State of Oregon it is law that we must follow the "Survey of Instructions for the Public Lands," and it is outdated, and we do not. So we are breaking the law. But it is just common knowledge. It does not work all the time. It is not to say that it is a poor manual in total, but in certain specific technical parts of it, it is. It just has not kept up with the state of the art.

The part that is bad is the transcribed notes, the field notes. That is what takes so long to get these Federal surveys approved. Transcribing these field notes. I would rather read Webster's Dictionary. It is more interesting.

Senator SCHMITT. It was my first job, the U. S. Geological Survey, first recording, and then transcribing.

Senator HAYAKAWA. What is our next step?

Senator SCHMITT. Mr. Chairman, I think we could come up with a mutually agreeable bill, between myself and the Department of Agriculture, and I think the Department of the Interior would agree with it, and it is basically, if the administration feels more comfortable with independent authority, I have no quarrel with that, so long as they agree that we do not reference the manual of instructions.

Plus, I think the effective date, October 1, 1983, that is fine, that gives everybody a chance. I would like to see it happen tomorrow, but I understand that you may feel that you need some time for transactions.

Mr. HOUSLEY. We feel it is appropriate to change, make the change over in the start of the fiscal year. It would obviate some problems, although not all of them. Transfer people and funds.

Senator HAYAKAWA. Well, I would rely upon you, Mr. Housley, and Senator Schmitt, to get together on this——

Senator SCHMITT. I think we could, and with your staff, draft a bill.

Senator HAYAKAWA. And Mr. McCullough.

Mr. MCCULLOUGH. We would like to. We still have to face the question of how those private property rights are protected, that is a real concern to us.

We think the Forest Service has been doing an excellent job in the past. We want to see that continued. A new administration may look at it differently.

Senator SCHMITT. You are suggesting that it be mandated in law, that Forest Service surveyors be licensed in the State?

Mr. MCCULLOUGH. That they have to follow the State's rules and laws that are applicable to those States.

Senator SCHMITT. But you just said some of those rules and regulations are outdated. If we mandated that the Forest Service surveyors in the State of Oregon must be licensed, and then they go and do what you are doing, and that is ignore the State law, does that not put the Forest Service——

Mr. MCCULLOUGH. Maybe I am a little strong in saying that we ignore it. We try to bring in modern technology.

Senator SCHMITT. What are we supposed to do in the meantime? Would you care to comment?

Mr. HOUSLEY. I hope Mr. McCullough is not ignoring the conditions of the contract of the Forest Service. I am sure he is not.

I think we consider that is unnecessary, although—it is unnecessary to require, in law, that our surveyors be licensed in each State in which they work. In practice, for many, many years, I think this is borne out by what has been said, our surveyors have been licensed, and are now licensed in the State where they work.

As you know, from your Federal experience, Senator Schmitt, people get transferred around a lot, and many of our surveyors have to be licensed in the whole series of States, in the Eastern United States. There may be some delay in this.

We think that we would continue to have, as our policy, that our people be licensed, but to say that licensing is the only test of qualification of ability, is probably not quite accurate. I think what it does say is that this demonstrates that the laws of that particular State, and their procedures mandated by those laws within States are a matter of knowledge by the licensee. A matter of surveying expertise could be demonstrated in other ways.

Senator SCHMITT. Mr. Chairman, it might be that we could consider, and I will ask my staff to work with yours to do that, some report language that would encourage, clearly encourage the Forest Service to continue their current policy, as well as encouraging them that when the contract for non-Federal surveys for Federal purposes, that they contract with persons licensed in the State of that activity.

Would that meet most of your concerns?

Mr. MCCULLOUGH. I think it would.

Senator SCHMITT. The report language is not binding, but it does tell the Forest Service what the intent is. I am concerned about making it binding in law, because of the concern that you indicated, the slowness that some States may be updating procedures, and also the problem of——

Mr. MCCULLOUGH. I do not think that would be a problem. The Forest Service could continue under the policy that they have, we would have no problem. We want to make sure that they do not fall into that trap.

Senator SCHMITT. Let us work on that report language. I think we can do that. One is the Forest Service personnel policy to move as expeditiously as possible toward being licensed in the State in which they practice. And, second, that when contractors are used, that they be licensed within the State of work. We can work that out.

Senator HAYAKAWA. I think we have done very well.

In that case, I thank the gentlemen, and the subcommittee is adjourned.

[Whereupon, at 10:50 a.m., the subcommittee adjourned, subject to call of the Chair.]

APPENDIX

STATEMENT OF RAYMOND M. HOUSLEY, DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Subcommittee: We appreciate the opportunity to offer the Department of Agriculture's views on S. 1187. The subject of Federal land boundary surveys is of great interest to us—the 190 million-acre National Forest System involves some 272,000 miles of property lines.

This bill would provide authority to the Secretary of Agriculture to conduct boundary surveys of National Forest System lands. This would be done by amending an 1899 Act that gives sole authority for Federal surveys to the Secretary of the Interior. While we support the objectives of S. 1187, we believe that the program required to carry out surveys can be handled most effectively by a reallocation of responsibilities between the Department of the Interior and the Department of Agriculture rather than by shared responsibilities as would be done by S. 1187. Thus, we recommend that separate statutory authority be provided to the Secretary of Agriculture. We have prepared a substitute bill, in cooperation with the Department of the Interior, to do this, a copy of which is attached to my statement.

We are concerned about the quality and timeliness of National Forest System land boundary surveys. About 47,000 miles of the 272,000 mile total have been surveyed and marked to standard through 1981. The prompt completion of the remainder is a matter of utmost importance to us. Establishment of boundaries is an integral part of all resource planning and management activities; consequently, surveys must be satisfactorily completed before other resource work, such as reforestation or timber harvesting, can take place. Without the boundary line in place, some restrictions on management must occur. An example is the setting back of timber sale areas from adjoining private property when the exact boundary is not known. In such a case, harvestable timber remains uncut.

Another aspect of the urgency that we attach to the boundary survey program is the avoidance of trespass. In 1976, we estimated that there were over 50,000 title claim and trespass situations on National Forest System lands, many of which were the result of inadequately maintained corner monuments and property lines. Many of the claims and trespasses would be resolved and future claims avoided, as well as private relief legislation, if the boundary surveys could be completed on a more timely basis.

The Department of the Interior, Bureau of Land Management has the leadership for the survey of public lands and performs some surveys of National Forest System lands as part of their overall responsibility. In recent years about 20 percent of the Bureau's survey program has been directed to surveys of System lands in the West, excluding Alaska, which were reserved from the public domain. In fiscal year 1981, it was 10 percent. Funds are also transferred from the Forest Service to BLM, averaging about $1 million annually, to make additional surveys not included in the Bureau's regular program. Under the BLM/Forest Service cooperative program the Forest Service may make a preliminary survey to locate any existing evidence of the original survey. The survey is then performed by the Bureau and then the Forest Service follows up to mark and post the boundary line on the ground. Approval and recording of surveys, done at the Bureau's National office, then follows.

It is important to recognize that the authority that would be provided by S. 1187 would be used only to conduct boundary surveys of National Forest System lands reserved from the public domain. The National Forests in the 14 Eastern States, which were originally surveyed by metes and bounds, and those in Texas and Puerto Rico, are surveyed by the Forest Service under State authority since no Federal authority is available. Only limited authority is available for surveying National Forests in Southern and Midwestern States, and here again we rely on State authorities. Surveys of acquired National Forest System lands in the West are done

directly by the Forest Service under authorities available to this Department. We should note that these surveys by the Forest Service comply with applicable States statutes insofar as registration and licensing of surveyors. In all cases where we survey under State or Departmental authorities, we approve the survey ourselves and file it in the county recorder's offices.

The reallocation of surveying responsibility between the two Departments would recognize the congressionally mandated goals imposed upon this Department for completion of resource management work on the National Forests. Our substitute bill, by designating the Secretary of Agriculture as the responsible official for surveys of National Forest System lands, would assist in achieving those goals. We emphasize the bill has the concurrence of the Department of the Interior which worked with us in its development.

We do not propose to establish an independent Federal survey authority through this proposed substitue. We would expect to continue to operate under the overall guidance of BLM's Manual of Survey Instructions for the Survey of Public Lands of the United States. At present, use of this administrative manual is not mandatory by those who survey Federal lands. Our proposed substitute would require use of this manual and thus provide a uniform set of survey standards and procedures. We would also continue to work closely with BLM to achieve an efficient Federal land survey system.

To effectively carry out the joint survey program, adjustment of funding and resources between the Departments to reflect the reallocation of responsibility would need to be accomplished in the fiscal year 1984 budget. This would be accomplished by section 3 of the substitute bill. In addition, funds now appropriated to the Forest Service and subsequently transferred to BLM would be retained and used by the Forest Service.

Mr. Chairman, we urge the Committee's consideration of our substitute bill. Its enactment would provide us the flexibility to accomplish high priority surveys of National Forest System lands. The reallocation of authority which it proposes, while still assuring uniformity will, we believe, improve the efficiency of the Federal land survey system. It is responsive to the major concern which lead to the introduction of S. 1187.

That concludes my prepared statement. I would be happy to answer the Subcommittee's questions.

II

97TH CONGRESS
1ST SESSION

S. 1187

To provide authority to the Secretary of Agriculture to conduct boundary surveys of National Forest System lands.

IN THE SENATE OF THE UNITED STATES

MAY 14 (legislative day, APRIL 27), 1981

Mr. SCHMITT introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

---

A BILL

To provide authority to the Secretary of Agriculture to conduct boundary surveys of National Forest System lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to improve the management of the National Forests and aid in the attainment of congressionally directed goals, the Secretary of Agriculture is authorized to conduct boundary surveys of the National Forest System.

SEC. 2. The third proviso in the first paragraph under the heading "SURVEYING THE PUBLIC LANDS" of the Act of March 3, 1899 (30 Stat. 1097, as amended; 16 U.S.C. 488),

is amended by (1) inserting after the words "whether the lands to be surveyed are within or without reservations," the words "or, in the case of the National Forest System, the Secretary of Agriculture or such officer as he may designate", and (2) striking the words "Director of the United States Geological Survey" and substituting the words "Secretary of Agriculture or such officer as he may designate.".

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 22, 1982.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 1187, a bill "To provide authority to the Secretary of Agriculture to conduct boundary surveys of National Forest System lands."

The Department of Agriculture recommends that S. 1187 not be enacted and that the enclosed substitute bill be enacted in lieu thereof.

S. 1187 would give the Secretary of Agriculture authority to survey boundary lines of lands in the National Forest System. Such authority would require an amendment to an 1899 Act that gives sole responsibility for making public land surveys to the Secretary of the Interior (30 Stat. 1097, as amended; 16 U.S.C. 488). This authority is presently carried out by the Bureau of Land Management.

The authority that would be provided by S. 1187 would be used to conduct boundary surveys for those units of the National Forest System created from the public domain. There is no Federal survey authority in the 14 Eastern States surveyed by metes and bounds and in Texas, Puerto Rico and Hawaii. There is only limited Federal authority in the Southern and Midwestern States. Surveys of National Forest System lands are made under State authorities in these cases. Surveys of western National Forest System lands purchased from private parties can be done by the Forest Service under authorities already available to this Department.

The 190 million acres of the National Forest System involve about 272,000 miles of property lines. About 80 percent of this total is on the western National Forests. There have been 47,000 miles surveyed and marked to standards through 1981. The Department of the Interior, Bureau of Land Management presently has the leadership for the survey of public lands and performs some surveys of National Forest System lands as part of their overall responsibility. In recent years about 20 percent of the Bureau's survey program has been directed to surveys of National Forest System lands in the West. These surveys are made on National Forest land reserved from the public domain. Funds are also transferred from the Forest Service to BLM, averaging about $1 million annually, to make additional surveys not included in the Bureau's regular program. Under this program, the Forest Service may make a preliminary survey to locate any existing evidence of the original survey. The survey is then performed by the Bureau, and the Forest Service then follows up to mark and post the boundary line on the ground. The Forest Service also supplements the Bureau's overall responsibilities by the surveying of western National Forest lands, doing so under Bureau procedures as set forth in the Manual of Instructions for the Surveys of Public Lands of the United States. Approval and recording of surveys, done at the Bureau's National office, then follows.

There is need for flexibility to accomplish high priority National Forest System boundary surveys. In 1976 we estimated that there were over 50,000 title claim and trespass situations on National Forest System lands, many of which were the result of inadequately maintained corner monuments and property lines. Many of the claims and trespasses could be resolved and future claims avoided if the boundary surveys could be completed on a more timely basis. The lack of established boundaries also restricts management. An example is the setting back of timber sale areas from private property lines when the exact boundary is not known. In such a case, harvestable timber remains uncut. We believe that resolution of these problems can be achieved through a reallocation of the surveying responsibilities between the two Departments. This should be accomplished, however, by enactment of a free-standing authority rather than by an amendment to the 1899 Act. Thus, we propose substitute legislation that would designate the Secretary of Agriculture as the responsible official for surveys of National Forest System lands where such authority now rests solely with the Department of the Interior. This would encompass those reserved National Forest System lands in the West. Our substitute bill, which is enclosed, has the concurrence of the Department of the Interior which worked with us in its development.

We do not propose to establish a new and independent Federal land survey authority through this proposed substitute to S. 1187. We would expect to continue to operate under the overall guidance of the Manual of Survey Instructions for the Survey of Public Lands of the United States. At present, its use is not mandatory by those who survey Federal lands. Our substitute proposal would require use of this manual.

Section 9 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, provides congressional direction regarding treatments needed to restore the renewable resources of the National Forest System. This includes the elimination of backlogs of needed treatments as well as current work. The Renewable Resources Program transmitted to Congress in 1980 in response to that act targets 2020 as the year in which all National Forest System boundaries will be established and marked. It also presents a program for the next 5 years aimed at that target. The survey program would be more effective in a supporting role to the ongoing resource management activities of the National Forest System instead of the present practice of handling it as a separate project. This shift in emphasis will facilitate better scheduling of surveys in advance of timber sales, tree planting, and similar resource management work.

The legislation, if enacted as we recommend, would not of itself require additional budget outlays. Funds now appropriated to the Forest Service and subsequently transferred to the Bureau of Land Management to survey National Forest System lands would be retained and used by the Forest Service. In addition, reallocation of funding and resources between the Department of the Interior and the Department of Agriculture to reflect the transfer of responsibilities would be accomplished in the fiscal year 1984 budget.

A thorough discussion of the cadastral survey programs of the Department of the Interior and the Forest Service is presented in two recent reports. These reports, by the Surveys and Investigations Staff of the House Committee on Appropriations, and by the General Accounting Office, examine the possiblity of granting survey authority to the Department of Agriculture.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

Enclosure.

USDA
SUPPLEMENTAL STATEMENT
A Substitute for S. 1187

A B I L L

To provide authority to the Secretary of Agriculture to conduct boundary surveys of National Forest System lands.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law to the contrary, the Secretary of Agriculture shall have the authority for the conduct of boundary surveys of National Forest System lands.

SEC. 2. The Manual of Instructions for the Survey of the Public Lands of the United States, issued by the Bureau of Land Management, Department of the Interior, shall govern survey and resurvey of public lands and National Forest System lands.

SEC. 3. So much of the personnel, properties, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available, in connection with the functions transferred under this Act, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency, or component, at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made.

BEST AVAILABLE COPY

STATEMENT OF TOM O. McCULLOUGH, REGISTERED PROFESSIONAL SURVEYOR IN THE STATE OF OREGON, ON BEHALF OF THE AMERICAN CONGRESS ON SURVEYING AND MAPPING

Mr. Chairman, I am Tom O. McCullough, a registered professional surveyor in the State of Oregon. My firm has extensive experience in surveying the National Forests of Oregon, Washington State, Northern California and Idaho. I am testifying today on behalf of the American Congress on Surveying and Mapping and its affiliate, the American Society of Photogrammetry. Together we represent more than 19,000 professionals and have an additional 16,500 members in 48 affiliated state societies. Our members work in both the private and public sectors and are engaged in the professions of surveying, mapping, remote sensing and photogrammetry.

Mr. Chairman, the problems in surveys of federal lands are a lot like Mark Twain's infamous remark about the weather -- everyone talks about it but no one ever seems to do anything about it. Well, I am pleased this Committee and indeed this session of the Senate appears willing to finally do something about federal land survey problems. You are to be commended for these efforts.

As you may know, there are several survey-related proposals before this Committee and the Committee on Energy and Natural Resources. Each addresses different aspects of surveys of federal lands, but all are needed in order to resolve the current problems. To simply enact one or two of these proposals will result in treatment of the symptoms, not the cause of the federal land survey problems. That is why ACSM-ASP, as the voice of the surveying profession, supports enactment of S. 705, S. 706 and S. 1187.

Each of these proposals were introduced as a result of serious federal land survey problems in the Lincoln National Forest in New Mexico. However, the problem is not isolated to one National Forest. It is, unfortunately, widespread. S. 705, the so-called "small tracts" bill, has already been reported by this Committee. It will provide the Secretary of Agriculture the authority to transfer small tracts of disputed land. S. 706, the Federal Land Survey Act which is pending before the Energy and Natural Resources Committee, would provide for more timely notice, conduct and approval of surveys of federal lands. S. 1187, the bill before the Committee today, would give the Secretary of Agriculture the authority to conduct boundary surveys of National Forest System lands. By enacting all three of these bills, either separately or as an omnibus federal land survey bill, Congress will give both the Department of Agriculture and the Department of Interior ample authority to resolve existing survey disputes and help prevent similar problems in the future.

We believe it makes good sense for a federal agency like the Forest Service to have the authority to survey its boundaries. The Forest Service's own estimates show that of 217,000 miles of boundary on the National Forest System, some 170,000 miles remain to be surveyed. That is equivalent to a line that would encircle the earth at the equator nearly 7 times! The Forest

BEST AVAILABLE COPY

Service also estimates that $112 million in trespass and litigation costs could be saved by prompt and accurate completion of surveys in the National Forest System.

With that much cadastral or boundary surveying remaining, Forest Service survey authority, as proposed in S. 1187, would result in greater eificiency and greater cost savings. No longer will one agency be required to "wait in line" to obtain a survey from another agency, nor will it face further delays in the approval and filing of the survey.

While these advantages will be realized by granting the Forest Service its own survey authority, we must also warn the Committee of several potential pitfalls. We point out these possible disadvantages with the hope they will be addressed by the Committee.

First is the question of registration and licensure. In recent years, the Forest Service has encouraged its survey personnel to become licensed in the states in which they practice. We commend the Forest Service for this effort and certainly hope this new survey authority will not discourage its continuation. In fact, we would recommend that the bill be amended to require Forest Service survey personnel to be licensed.

Licensing puts the Forest Service on the same level as private surveyors and provides consistency in the manner in which survey work is conducted. This is particularly true in the area of resurveys and retracements which account for most Forest Service cadastral work.

Currently, states provide an exemption for federal employees in their surveying registration laws. This is a result of several court cases in which the Supreme Court ruled that a state licensing requirement of an agent of the Federal Government would subordinate the activities of the Federal Government to state control.

However, the Committee should keep in mind the fact that when we speak of "federal land surveys" we are also speaking of private property lines. Except in the rare instance in which a National Forest is bordered by some other Federal property, every mile of National Forest boundary is at the same time a mile of private property line.

States require licensing of private surveyors in order to protect the public interest and to assure the consumer that the surveyor has met certain requirements. We believe it is also in the public interest for those surveying lines which serve as both a private and federal boundary line to be registered in that particular state.

I might also add parenthetically, Mr. Chairman, that in your home state of California the Forest Service has even procured the services of non-licensed individuals to provide

BEST AVAILABLE COPY

surveying services on National Forest boundaries. While the legality of such a practice is in question, we believe it is poor public policy and certainly not in the best interest of the government nor private property owners. By using non-licensed individuals to provide survey services, the Forest Service is simply asking for more of the problems that have brought about the legislative proposals now before the Congress.

Not only should the Forest Service honor state law regarding licensure and registration, but we also believe it would be prudent for the agency to comply with state statutes governing corner recordation, filing and certification, and platting when the survey affects the bona fide rights of a private owner or is adjacent to private lands. Compliance with state procedures will promote harmony and cooperation among private surveyors, private property owners and the Forest Service itself. It will also provide consistency in the procedures of the Forest Service and private surveying professionals in each state.

This brings us to our second reservation with the proposal, as substituted by the Administration. The substitute for S. 1187, as we understand it from previous Forest Service testimony on H.R. 4399, the Federal Land Survey Act pending in the House of Representatives, requires the Forest Service to abide by the Manual of Instructions for the Survey of the Public Lands of the United States. This provision not only codifies antiquated and outdated survey procedures, but it sets a dangerous precedent by writing into law a manual over which neither the Forest Service nor Congress will likely have any control.

The Bureau of Land Management (BLM) Manual is used everyday by surveyors who, like myself, do extensive work on federal lands. It includes general rules and primary methods for restoring lost or obliterated corners which are almost universal for all surveying and the basis for most state statutes. Professional surveyors agree with these principles.

The remainder of the manual is a textbook, a procedural guide on measuring distance and angles, establishing and marking corner monuments, drawing a plat and preparing field notes. These guidelines do not belong in statutes. The manual is already out of date in many cases and it will be in need of change again in the future as technology and the state-of-the-art of surveying improve. The procedures in the manual are found in regular text-books and the professional surveyor keeps up-to-date with current procedures and technology through continuing education seminars such as those sponsored by ACSM-ASP.

As an example of the dated nature of the BLM Manual it includes the fact that it makes reference to an Interior Department Appropriation Act of 1911 which the manual says "brought to a close the practice of letting contracts for the making of surveys of public lands." (p. 7-8) In this day of increased reliance upon the private sector and the issurance of OMB Circular A-76,

which Senator Hayakawa has included in a Senate resolution, does the Committee want to eliminate the authority of agencies to contract with private surveying professionals?

Further, the manual suggests that all measurements be in chains (p. 13). It also provides a "limit of closure" or accuracy standard of 1/905, or to use a modern term, a "window of vulnerability" of 5'10" per mile (p. 98). Modern technology and many state statutes require accuracy of 1/2 foot per mile or ten times greater than that required in the manual.

Procedures and out-of-date requirements simply have no place in federal law. The Administration's proposal to include the BLM Manual in their substitute would tie the hands of the Forest Service as well as the Congress.

How would the manual be amended or updated? If the manual is written into law, would it require an Act of Congress to change it? If not, would Congress be giving BLM a blank check to change the way in which federal lands are surveyed with no Congressional recourse? Could such a blank check lead to more of the same problems which led to the introduction of legislation to resolve survey problems in the first place? If the Forest Service is to be required by law to comply with the BLM Manual, how will the Forest Service go about changing another agency's manual when Forest Service surveyors find provisions which are in need of change? Should the Forest Service be locked into procedures beyond its control which are dictated by another agency in another Department?

These are questions for which the Committee should demand firm and unequivocal answers before it considers writing the BLM Manual into federal law. We would suggest that Forest Service personnel refer to the manual, but not be bound by it. The Forest Service is a professional organization which should develop its own survey standards, methods and procedures that take into account state law, current state-of-the-art in the surveying profession and the bona fide rights of private property owners.

Finally, Mr. Chairman, the Forest Service should not fall into the same problems which have occurred all too often with BLM surveys. The public often fails to distinguish between federal agencies and the problems which S. 1187 seeks to avoid will hopefully enhance the public's image of the Forest Service.

In order to prevent past survey problems from occurring again, we suggest the attached modified version of H.R. 4399 be considered as a mark-up vehicle for the Committee. The concept of S. 1187, or the Administration's substitute less the reference to the BLM Manual, should be an important amendment to the bill.

The following is a brief summary of the provisions we suggest:

BEST AVAILABLE COPY

Purposes
- declare national policy to encourage timely conduct and approval of Federal land surveys;
- foster cooperation among landowners, State and Federal agencies involved in Federal surveys;
- provide study and basis for a multipurpose cadastre (a coordinated land information system); and
- emphasize the qualifications and experience of surveying and mapping professionals in Federal procurement of their services.

Policies of the Federal government in its survey work
- coordinate Federal land surveys with other Federal plans, functions, programs and resources;
- protect bona fide rights of landowners and claiments affected by Federal land surveys by complying with state statutes; and
- take the initiative in developing a multipurpose cadastre;

Role of Secretary of Interior (BLM) and Secretary of Agriculture (FS) in surveys of public lands
- BLM and FS would be required to provide all affected government entities, individuals, entrymen and landowners with notice of intent to conduct, certify or record a survey, not less than 30 days before such action;
- BLM and FS would be required to initiate such survey within 6 months of such notice;
- BLM and FS would have to complete such survey within 2 years of initiation. Each monument would include a permanent mark designating the year of the survey, or designate the monument as temporary. These federal activities would have to comply with applicable State statutes regarding land survey licensure, corner recordation, and platting when the survey affects the bona fide rights of a private property owner or is adjacent to private land;
- BLM and FS would have to certify the survey and file or record it in the appropriate land office and state agency within 90 days of its completion;
- requires BLM and FS to remove any temporary monument that is not certified within 90 days, the removal notice thereof to occur no later than 180 days after the 90 day period has expired;
- requires BLM and FS to monument and certify a section subdivision survey in accordance with applicable state procedures for subdivisions of sections whenever a survey involves both Federal and non-federal lands; and
- authorizes the Secretaries of Interior and Agriculture, or their designees to conduct surveys of Federal lands by contracting with private entities licensed or registered to perform such surveying in the state or states in which the surveying is conducted. Procurement procedures that emphasize the qualifications of surveying and mapping professionals would be utilized, as outlined in Title 41, Subpart 1-4.1002, Code of Federal Regulations.

Feasibility study of a multipurpose cadastre
- Secretaries of Agriculture, Commerce, Interior, the Governors of the fifty states, and the National Academy of Sciences would participate in the study and submit a feasibility report with recommendations and any legislative proposals to Congress within 3 years.

Definition
- Defines "survey" as a survey, resurvey or retracement which marks, defines, retraces or reestablishes the boundaries and subdivisions of the Federal lands of the United States; and defines "Federal lands" as all lands administered by the Federal Government of the United States as defined in the Federal Land Policy and Management Act of 1976, and all acquired lands obtained by the Federal Government by purchase, condemnation, or gift under laws other than the public land laws.

Authorization
- Authorizes such funds to be appropriated as necessary to carry out the provisions of the Act.

The purpose of these amendments is to promote harmony and cooperation between the private property owner and the Federal government, and to facilitate more timely conduct of surveys and resurveys of Federal lands. This package also calls for a feasibility study to determine whether a "multipurpose cadastre" should be established to coordinate the many varieties of land data and eliminate duplication of such data. Finally, our proposal would authorize the agencies to contract with private enterprise to assist in the timely conduct and completion of Federal surveys. These three basic provisions - the timetable for conduct of surveys, the feasibility study of a multipurpose cadastre and the authority to contract with private enterprise - will help provide an essential framework for implementation of existing Federal land management programs.

We strongly urge this Committee to combine these provisions with the principle of S. 1187 and to work with the Energy and Natural Resources Committee in order to develop sound federal land survey legislation which helps prevent future problems in the surveys of both BLM and Forest Service lands.

We commend you, Mr. Chairman, for holding this hearing. We regret your decision to leave the Senate as you have displayed an appreciation for our National Forest System and an interest in the well being of those of us who live near them and rely upon them to a great extent to make a living. We wish you well in all your future endeavors. Further, we appreciate the efforts of Senators Schmitt and Domenici who have introduced these important survey proposals. Finally, we appreciate this opportunity to provide the views of our profession and look forward to working with the Committee and staff to develop sound federal land survey legislation that will help make the Federal Government a "good neighbor" to private property owners whose land borders the federal lands.

○

BEST AVAILABLE COPY